FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.9549 OF 2003

Office Notes, Office Memoranda appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's Order

Mr.M.P.Vashi, for Petitioner.

Mr.Mr.Vivek Kantawala i/b. Kantawalal & co. for Respondents.

CORAM: D.K.DESHMUKH,J.

DATED: 31st August, 2005.

P.C.:-

By this petition, the petitioner challenges the order passed by the Family Court holding that the Family Court does not have jurisdiction to entertain the petition. The learned Counsel appearing for petitioner relied on two judgments to contend that the Family court has jurisdiction. (i) The judgment of the Division Bench in the case

"Sunita w/o. Ravi Sangavai Vs. Ravi s/o. Venkatesh Sangavai, 2004(1) Mh.L.J. 870" and (2) the Judgment in the case of "Sucheta Dilip Ghate & another Vs. Dilip Shantaram Ghate, 2003(4) Mh.L.J. 445." The Division Bench in the judgment in the case of "Sunita w/o. Ravi Sangavai" has relied on the judgment of the Division Bench in the case "Sucheta Dilip Ghate & another Vs. Dilip Shantaram Ghate, 2003(4) Mh.L.J. 445." Perusal of the judgment in the case "Sucheta Dilip Ghate & another Vs. Dilip Shantaram Ghate, 2003(4) Mh.L.J. 445." shows that the Court while deciding whether the Family court has jurisdiction to entertain the petition, has held that the Court should look into the averments made in the petition to find out as to where the cause of action has arisen. Perusal of the petition filed by the petitioner before the Family Court shows that in the petition, the petitioner nowhere claims that she has a right to be maintained by the respondent at Bombay. There is also

no averment that because of denial of her right to be maintained at Bombay, the cause of action has arisen at Bombay. In the absence of that averment, no fault can be found with the order passed by the Family Court. Hence, the petition is rejected.